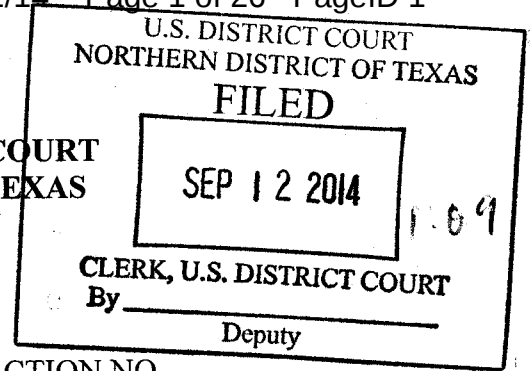


ORIGINAL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION



NUEMI RUIZ

*Plaintiff.*

v.

VERIZON COMMUNICATIONS, INC.  
D/B/A VERIZON WIRELESS

*Defendant.*

CIVIL ACTION NO.

**4-14CV-750-0**

TRIAL BY JURY DEMANDED

**ORIGINAL COMPLAINT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiff Nuemi Ruiz, complains of Verizon Communications, Inc. d/b/a Verizon Wireless Defendant, and for cause of action would respectfully show as follows:

**NATURE OF ACTION**

1. This is an action for damages brought by individual, Plaintiff Nuemi Ruiz against Defendant Verizon Communications, Inc. d/b/a Verizon Wireless for violations of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227(b)(1)(A) and 47 U.S.C. § 227(b)(1)(A)(iii).
2. Plaintiff contends that the Defendant has violated such laws by calling Plaintiffs cellular telephone with recorded messages using an automatic telephone dialing system. Defendant continued to call Plaintiff's cellular phone after being informed to stop calling her cellular phone.

**JURISDICTION AND VENUE**

3. Jurisdiction of this Court arises under 47 U.S.C. §227(f)(2).
4. This Court has jurisdiction over Defendant pursuant to 28 U.S.C. §1391b because Defendant engages in business within this state, to wit debt collection.
5. Venue is proper pursuant to 28 U.S.C. §1391b and 47 U.S.C. §227(f)(4) .
6. Venue in the Northern District of Texas, Fort Worth Division is proper in that the Plaintiff resides in State of Texas, Tarrant County, City of Fort Worth, the Defendant transacts business here, and the conduct complained of occurred here.
7. All conditions precedent to the bringing of this action, have been performed.

**PARTIES**

8. The Plaintiff in this lawsuit is Nuemi Ruiz, a natural person and a citizen of Tarrant County, Texas.
9. Defendant in this lawsuit is Verizon Communications, Inc. d/b/a Verizon Wireless (herein after "Verizon") a company with principal office at 140 West Street, New York, NY 10007.
10. Verizon may be served with process by serving C T Corporation System, 111 Eight Ave., New York, New York, 10011.

**FACTUAL ALLEGATIONS**

11. On **August 16, 2014 at 01:37 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 669-8557. **(Exhibit A)**
12. On **August 22, 2014 at 12:54 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 669-8557. **(Exhibit B)**
13. On **August 23, 2014 at 10:53 a.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 932-2222. **(Exhibit C)**
14. On **August 25, 2014 at 02:12 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 338-3985. **(Exhibit D)**
15. On **August 26, 2014 at 02:48 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 338-3955. **(Exhibit E)**
16. On **August 26, 2014 at 04:43 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 338-3955. **(Exhibit F)**
17. On **August 26, 2014 at 10:26 a.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 338-3955. **(Exhibit G)**
18. On **August 28, 2014** Plaintiff sent a letter via United States Postal Service Certified Mail informing Defendant Verizon they did not have permission to call Plaintiffs' cellular telephone number (217) 550-1424 and the calls were a violation of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227(b)(1)(A) and 47 U.S.C. § 227(b)(1)(A)(iii). Defendant Verizon received Plaintiff's written correspondence on **September 02, 2014 at 06:12 a.m.**
19. On **September 02, 2014 at 02:20 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 925-0415. **(Exhibit H)**

20. On **September 02, 2014 at 04:04 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (480) 496-7700. **(Exhibit I)**
21. On **September 02, 2014 at 04:39 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (480) 496-7700. **(Exhibit J)**
22. On **September 03, 2014 at 06:42 p.m.**, Plaintiff spoke with a representative for Defendant by the name of Jessica, who informed Plaintiff that calls to her cellular phone number (217) 550-1424 would stop. **(Exhibit K)**
23. **Refer to ¶18 and ¶23**, Plaintiff informed Defendant Verizon via written correspondence and also spoke with a representative named Jessica for Defendant and informed them to stop calling Plaintiff's cellular phone, yet calls have continued to Plaintiff's cellular phone number (217) 550-1424.
24. On **September 04, 2014 at 08:07 a.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 338-3989. **(Exhibit L)**
25. On **September 04, 2014 at 10:30 a.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 338-3989. **(Exhibit M)**
26. On **September 04, 2014 at 02:00 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 338-3989. **(Exhibit N)**
27. On **September 04, 2014 at 05:30 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 338-3989. **(Exhibit O)**
28. **AGAIN**, on **September 08, 2014 at 01:10 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 338-3986. **(Exhibit P)**
29. On **September 08, 2014 at 05:06 p.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 338-3986. **(Exhibit Q)**

30. On **September 09, 2014 at 08:04 a.m.**, Defendant Verizon called the Plaintiff's wireless cell phone (217) 550-1424 from telephone number (314) 338-3985. **(Exhibit R)**
31. In each telephone communication in question here, Defendant Verizon used an automatic telephone dialing system to dial Plaintiff's wireless cellular phone as defined by the Telephone Consumer Protection Act, 47 U.S.C. §227(a)(1).
32. At no time has the Plaintiff given her express consent, written or otherwise, to Defendant Verizon to call her wireless cellular telephone.
33. Plaintiff has no prior or present established relationship with Defendant Verizon.
34. Plaintiff has no contractual obligation to pay Defendant Verizon any alleged consumer debt.
35. All violations complained of herein occurred within the statute of limitations of the applicable federal statutes.

### **COUNT I**

#### **VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT 47 U.S.C. §227(b)(1)(A) BY DEFENDANT VERIZON COMMUNICATIONS, INC. D/B/A VERIZON WIRELESS**

36. Paragraphs 1 through 35 are re-alleged as though fully set forth herein.
37. Plaintiff and Defendant Verizon do not have an established business relationship within the meaning of 47 U.S.C. §227(a)(2).
38. Defendant Verizon called Plaintiff's cellular telephone using an "automatic telephone dialing system" within the meaning of 47 U.S.C. §227(a)(1).
39. In each telephone communication referenced in ¶11 through ¶17, ¶19 through ¶21, and ¶24 through ¶30 Defendant Verizon has demonstrated willful or knowing non-compliance with 47 U.S.C. § 227 (b)(1)(A) by using equipment with automatic telephone

dialing system or used a telephone dialing system that has the **capacity** to automatically call the Plaintiff's cellular telephone number (217) 550-1424, which is assigned to a cellular telephone service **with no** prior express consent and for no emergency purpose.

40. 47 U.S.C. §227(b)(1)(A) which states in part;

(b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—

(1) PROHIBITIONS.—It shall be **unlawful for any person** within the United States, or any person outside the United States if the recipient is within the United States—

**(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—**

**WHEREFORE**, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated the Telephone Consumer Protection Act and/or admission from the Defendant(s) that they violated the Telephone Consumer Protection Act;
- b) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(B); which states in part: an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater.
- c) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(C); which states in part: If the Court finds that the Defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the Court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 (three) times the amount available under subparagraph (B) of this paragraph.
- d) Awarding such other and further relief as the Court may deem just and proper.

**COUNT II**

**VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT  
47 U.S.C. §227(b)(1)(A)(iii) BY DEFENDANT VERIZON COMMUNICATIONS,  
INC. D/B/A VERIZON WIRELESS**

41. Plaintiff alleges and incorporates the information in paragraphs 1 through 40.

42. In each telephone communication referenced in ¶11 through ¶17, ¶19 through ¶21, and ¶24 through ¶30 Defendant Verizon has demonstrated willful or knowing non-compliance with 47 U.S.C. §227(b)(1)(A)(iii) by using equipment with automatic telephone dialing system or used a telephone dialing system that has the **capacity** to automatically call the Plaintiff's number (217) 550-1424, which is **assigned to a cellular telephone service**.

43. 47 U.S.C. §227(b)(1)(A)(iii) which states in part;

**(b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—**

(1) PROHIBITIONS.—It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(iii) **to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;**

**WHEREFORE**, Plaintiff prays for relief and judgment, as follows:

e) Adjudging that Defendant violated the Telephone Consumer Protection Act and/or admission from the Defendant(s) that they violated the Telephone Consumer Protection Act;

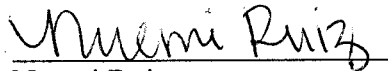
- f) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(B); which states in part: an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater.
- g) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(C); which states in part: If the Court finds that the Defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the Court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 (three) times the amount available under subparagraph (B) of this paragraph.
- h) Awarding such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff is entitled to and hereby demands trial by jury.

Dated: September 12, 2014

Respectfully Submitted,



Nuemi Ruiz  
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Fort Worth, TX 76106  
(682) 564-6140  
nuemiruiz@yahoo.com



